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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,011	03/08/2007	Christ J. Pavlatos	26880-100961	1220
23644 7590 10/05/2010 BARNES & THORNBURG LLP One North Wacker Drive CHICAGO, IL 60690-2786				
EXAMINER				
PHONGSVIRAJATI, POONSIN				
ART UNIT		PAPER NUMBER		
3686				
NOTIFICATION DATE		DELIVERY MODE		
10/05/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/595,011

Applicant(s)

PAVLATOS ET AL.

Examiner

SIND PHONGSVIRAJATI

Art Unit

3686

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 8, 9, 11-13, 15, 18-20 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 9, 11-13, 15, 18-20 and 22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20100916
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/15/2010 has been entered.

Status of Claims

1. In response to communication filed on 09/15/2010, claims 1, 11, and 20, are currently amended, claim 7 is canceled. Claims 1-4, 6, 8-9, 11-13, 15, 18-20, 22-28 are now pending.

Claim Rejections - 35 USC § 112 First Paragraph

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-4, 6, 8-9, 11-13, 15, 18-20, 22-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a

way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

2. As to Claim 1, Applicant amended the claim to include:

wherein the banner section includes a drug assistance request template, the drug assistance request template being automatically populated generated with a patient's health information based on the detection by the web-based interface that the patient qualifies for a drug assistance program

However, Applicant did not specifically disclose nor was the Examiner able to find anywhere in the original disclosure that implicitly, explicitly, or inherently teaches of the template being populated with the patient's health information **based on the detection by the web-based interface that the patient qualifies for a drug assistance program** (emphasis added).

The specification teaches that:

A fourth function is connectivity to drug assistance programs provided by various pharmaceutical companies for patients that cannot afford the medication the physician-user is considering prescribing. Drug assistance programs are unknown to many physicians or underutilized because of the time and effort to complete the forms. The current system may use an Enterprise Master Patient Index (EMPI) and stores demographic information on the patient which allows patient information to automatically be generated in drug assistance program request forms. Therefore, this service can be provided when the patient is still present in the physician's office which means it is more likely to be used to the patient's benefit. To perform this task, the banner 94 may display a drug assistance request template or form that may be automatically populated with the patient's health information.

While Examiner agrees that the specification teaches of automatically populating patient information into a drug assistance template, nothing in the disclosure teaches of the population being based on the detection by the web-based interface that the patient qualifies for a drug assistance program.

Claims 2-4, 6, 8-9 inherit the deficiencies of claim 1 and are rejected under 112(1) using the same rationale and reasoning.

Claim 20 contains similar deficiencies as claim 1 under 112(1), as described above, and is therefore rejected under 112(1) for the same reason.

Claims 22-28 inherit the deficiencies of claim 20 and are rejected under 112(1) using the same rationale and reasoning.

3. As to Claim 11, Applicant amended the claim to include:

(d) initiating a communications session with a selected drug provider from a plurality of drug providers over the communication network at a network address associated with the selected drug provider based on prescription information in the patient health record section,

However, Applicant did not specifically disclose nor was the Examiner able to find anywhere in the original disclosure that implicitly, explicitly, or inherently teaches of initiating a communications session with a selected drug provider **at a network address associated with the selected drug provider** (emphasis added).

The specification teaches that:

A third function is that a physician can click on a banner to automatically connect, or to schedule a connection, to an audio, visual, or other interactive conference with a drug company's representative. For this function, the banner may become, or upon being clicked launch, an audio-visual portal for hosting the communications session. The drug company's representative or other provider, including a drug whole-seller, reseller, or other distributor, may be selected based on the information in the patient health record section and/or the physician's preferences.

While it is questionable that a network address associated with drug provider is implicitly or inherently necessary to establish a communications session over a communications network; Applicant has specifically amended the claim to specifically recite this limitation as overcoming the applied art. Therefore, it is taken that this limitation is not implicitly or inherently necessary for establishing a communications session over a communications network since if Applicant were to make that assumption, then that assumption should be carried over to the applied art that similarly teaches of establish a communications session over a communications network with a drug provider.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. The 101 rejection to claims 1-4, 6-9 are withdrawn given Applicant's corrections/amendments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6 8, 20, 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson et al. (US 5,737,539) in view of Kozic (US 2003/0179287) in further view of Kaker et al. (US 2001/0037218).

5. As to **Claims 1 and 6**, Edelson teaches of an interface for use in accessing a repository server by a healthcare provider, the interface comprising: a repository server including health-related information of a plurality of patients (Abstract, col. 8 lines 20-31); an interface adapted to facilitate access to the health-related information on the repository server, wherein the interface includes: at least one patient health record section adapted to display health-related information of a selected patient retrieved from the repository server (Abstract, Fig. 2, 3, col. 8 lines 20-31), and a banner section being operative to display information based on the content of the patient health record section, wherein the banner section includes a communications portal for hosting a communications session with a drug provider that is selected based on prescription information in the patient health record section (Fig. 3, col. 19 lines 36-60, col. 26 line 56 to col. 27 line 29). However, Edelson does not specifically disclose the

communication session being an interactive communication portal session and the interface being a web-based interface. Kozic does teach of a web-based interface and an interactive video conferencing function for providing pharmaceutical services to remote sites (paragraphs 12-14). It would have been obvious to one of ordinary skill in the art at the time of the invention to have an interactive communication session within the teachings of Edelson for the motivation for incorporating interactive computer-assisted decision making (Edelson, col. 50 lines 44-53).

The combination of Edelson and Kozic does not specifically disclose a drug assistance request template being automatically populated with a patient's health information based on the detection by the web-based interface that the patient qualifies for a drug assistance program. However, this feature is old and well known as evidenced by Kaker (paragraphs 5-6, 110, 117). It would have been obvious to one of ordinary skill in the art at the time of the invention to have automatically populate a form template with a patient's health information based on the detection by the web-based interface that the patient qualifies for a drug assistance program for the motivation for giving drug assistance to the patient.

6. As to **Claim 2**, Edelson teaches of the banner section further comprising a prescription ordering template related to prescription information in the patient health record section (col. 19 lines 26-35).

7. As to **Claim 3**, Edelson teaches of the interface of claim 1, the banner section further comprising a product ordering template related to information in the patient health record section (col. 19 lines 26-35).

8. As to **Claim 4**, Edelson teaches of the interface of claim 1, the banner section further comprising drug information related to the prescription information in the patient health record section (col. 19 line 28).

9. As to **Claim 8**, Edelson teaches of the banner section further comprising physician-customizable drug advertising (Fig. 14).

10. As to **Claim 20**, Edelson teaches of a system of providing health services to a patient, the system comprising: a web-based patient health information system that displays patient information via a browser interface; a server with a database of health-related information, wherein the server is operable to communicate with the web-based patient health information system over a communication network; computer-executable instructions for performing steps comprising: retrieving at the .patient information system a health record of as elected patient (Abstract, col. 8 lines 20-31); displaying at least a portion of the health record on to the browser interface, the health record containing health record content (Fig. 2-3); comparing the content to the database of health-related information (col. 8 lines 20-31); retrieving information from the database of health-related information that is related to the content (col. 14 lines 19-24); and displaying the health-related information in a banner via the browser interface; selecting the banner to perform an action, wherein the action includes displaying a drug

assistance application (Fig. 4-19, col. 33 lines 3-10); populating the drug assistance application automatically with the selected patient's health information (Fig. 4-19); connecting with a drug assistance program provider via the communication network (Fig. 4-19); sending the drug assistance application to the drug assistance program provider via the communication network (Fig. 4-19, col. 33 lines 3-10); a processor for executing the computer executable instructions; and a memory for storing at least the computer executable instructions (Abstract).

The combination of Edelson and Kozic does not specifically disclose a drug assistance request template being automatically populated with a patient's health information based on the detection by the web-based interface that the patient qualifies for a drug assistance program. However, this feature is old and well known as evidenced by Kaker (paragraphs 5-6, 110, 117). It would have been obvious to one of ordinary skill in the art at the time of the invention to have automatically populate a form template with a patient's health information based on the detection by the web-based interface that the patient qualifies for a drug assistance program for the motivation for giving drug assistance to the patient.

11. As to **Claim 22**, Edelson teaches of the system of claim 20, further comprising the action being displaying a prescription ordering template (col. 19 lines 26-35).
12. As to **Claim 23**, Edelson teaches of the system of claim 20, further comprising connecting to a drug provider over a communications network and electronically

notifying the drug provider of a prescription (Fig. 3, col. 19 lines 36-60, col. 26 line 56 to col. 27 line 29).

13. As to **Claim 24**, Edelson teaches of the system of claim 23, further comprising the drug provider being a pharmacy (col. 25 lines 36-40).

14. As to **Claim 25**, Edelson does not specifically disclose the communication session being an interactive communication portal session. Kozic does teach of an interactive video conferencing function for providing pharmaceutical services to remote sites (paragraphs 12-14). It would have been obvious to one of ordinary skill in the art at the time of the invention to have an interactive communication session within the teachings of Edelson for the motivation for incorporating interactive computer-assisted decision making (Edelson, col. 50 lines 44-53).

15. As to **Claim 26**, Edelson teaches of the system of claim 20, further comprising connecting to a database of illnesses and displaying an alert message in the banner in response to the content being related to a monitored illness (col. 22 lines 44-54).

16. Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson et al. (US 5,737,539) in view of Kozic (US 2003/0179287) in further view of Kaker et al. (US 2001/0037218) and Rao (US 2003/0177038).

17. As to **Claims 9 and 28**, the combination of Edelson, Kozic and Kaker does not specifically disclose the banner section further comprising an alert banner configured to

display a commonly misdiagnosed illness responsive to one or more medical conditions in the patient health record section. Rao does teach of an interface that alerts of potential misdiagnosed illnesses at a particular time and place responsive to one or more medical conditions in the patient health record section (paragraph 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the feature of alerting to misdiagnosed illnesses within the teaching of Edelson for the motivation for giving the correct diagnosis to the patient.

18. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson et al. (US 5,737,539) in view of Kozic (US 2003/0179287) in further view of Kaker et al. (US 2001/0037218) and Applicant admitted prior art (AAPA).

19. As to **Claim 27**, the combination of Edelson and Kozic does not specifically disclose the database of illnesses being a database controlled by the Centers for Disease Control. However, it is well known in the art for the Centers for Disease Control to control a database of illnesses, for instance, the CDC may update a database for an upcoming pandemic, and official notice to that effect is hereby taken. Since Applicant did not adequately traverse Examiner's finding of official notice from the previous office action, the finding of official notice will be taken as Applicant admitted prior art (MPEP 2144.03). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the disclosure of Edelson and Kozic for the motivation for keeping an up-to-date database of illnesses.

20. Claims 11-13, 15, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson et al. (US 5,737,539) in view of Kozic (US 2003/0179287) in further view of official notice.

21. As to **Claims 11 and 15**, Edelson teaches of system for providing health-related assistance based on information in an electronic health record, the system comprising: use in accessing a repository server by a healthcare provider, the interface comprising: a repository server including health-related information of a plurality of patients (Abstract, col. 8 lines 20-31); an interface adapted to facilitate access to the health-related information on the repository server, wherein the interface includes: at least one patient health record section adapted to display health-related information of a selected patient retrieved from the repository server (Abstract, Fig. 2, 3, col. 8 lines 20-31), and a banner section being operative to display information based on the content of the patient health record section, wherein the banner section includes a communications portal for hosting a communications session with a drug provider that is selected based on prescription information in the patient health record section (Fig. 3, col. 19 lines 36-60, col. 26 line 56 to col. 27 line 29). However, Edelson does not specifically disclose the communication session being an interactive communication portal session and the interface being a web-based interface. Kozic does teach of a web-based interface and an interactive video conferencing function for providing pharmaceutical services to remote sites (paragraphs 12-14). It would have been obvious to one of ordinary skill in

the art at the time of the invention to have an interactive communication session within the teachings of Edelson for the motivation for incorporating interactive computer-assisted decision making (Edelson, col. 50 lines 44-53).

The combination of Edelson and Kozic does not specifically disclose a network address associated with the selected drug provided. However, the Examiner takes official notice that it is well known in most computer arts for a computer with video and audio communications capabilities to have a network address associated with the computer the user is videoconferencing to. It would have been obvious to one of ordinary skill in the art at the time of the invention to have a network address associated with the selected drug provider within the teachings of Edelson and Kozic for the motivation for enabling videoconferencing capabilities.

22. As to **Claim 12**, Edelson teaches of the banner section further comprising a prescription ordering template related to prescription information in the patient health record section (col. 19 lines 26-35).

23. As to **Claim 13**, Edelson teaches the system of claim 12 further comprising ordering or renewing a prescription electronically using the prescription ordering template (col. 20 lines 31-49).

24. As to **Claim 18**, Edelson teaches the system of claim 11, further comprising the step of, in response to the patient-information corresponding to a monitored illness, displaying an alert inside the banner section about the monitored illness (col. 31 lines 22-38).

25. As to **Claim 19**, Edelson teaches system of claim 18, further comprising the monitored illness being a government-monitored illness (col. 22 lines 44-54).

Response to Arguments

26. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. P./

Examiner, Art Unit 3686

24 September 2010

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686